

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
Montgomery Division**

2008 FEB 21 P 1:15

CAROL D. BLACK,

Plaintiff,

v.

Civil Action No.

2:08cv128-MEF

ZARZAUR & SCHWARTZ, P.C.

**DEMAND FOR
JURY TRIAL**

Defendant.

COMPLAINT

In this action, the plaintiff, Carol D. Black, asserts claims against the defendant, Zarzaur & Schwartz, P.C., a law firm engaged in the business of collecting debts, based on actions taken by the defendant in violation of the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §1692 et seq. Specifically, Zarzaur & Schwartz failed to provide Ms. Black with verification of two debts it was attempting to collect from Ms. Black, despite the fact that she had requested such verification under the provisions of 15 U.S.C. §1692g(a). Instead, Zarzaur & Schwartz filed suit against Ms. Black seeking to collect these debts, in violation of §1692g(b), which requires debt collectors in cases where verification of the debt has been requested to “cease collection” of the debts until the verification has been obtained and mailed to the debtor. Further, after having been advised that these actions violated the FDCPA, Zarzaur & Schwartz refused to dismiss the lawsuit it had filed.

For these actions of Zarzaur & Schwartz in violation of the FDCPA, Ms. Black seeks compensation for her actual damages, including her attorney’s fees incurred in defending the

collection lawsuit, appropriate statutory damages under the FDCPA, and her costs and attorney's fees in this action.

Jurisdiction and Venue

1. This Court has jurisdiction to hear the plaintiff's claims under the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §1692k(d), and under 28 U.S.C. §1331.

2. Venue is proper in the Middle District of Alabama. 28 U.S.C. §1391(b).

Parties

3. The plaintiff, Carol D. Black, is a citizen of the State of Alabama and lives in Butler County.

4. The defendant, Zarzaur & Schwartz, P.C. is a professional corporation which is incorporated under the laws of the State of Alabama and which has its principal place of business in Birmingham, Alabama. Zarzaur & Schwartz is a law firm which specializes in representing creditors and in collecting unpaid debts.

Statement of Facts

5. On or about November 10, 2006, a person acting on behalf of the defendant, Zarzaur & Schwartz, P.C., sent the plaintiff, Carol D. Black, a letter advising her that Zarzaur & Schwartz was seeking to collect the amount of \$12,342.58, claimed to be due to Citibank (South Dakota), N.A. (This alleged debt will be referred to hereafter as "Citibank Account #1".)

6. On or about November 10, 2006, the same person, again acting on behalf of Zarzaur & Schwartz, sent Ms. Black a second letter advising her that Zarzaur & Schwartz was seeking to

collect the amount of \$9,155.39, also claimed to be due to Citibank (South Dakota), N.A. (This alleged debt will be referred to hereafter as “Citibank Account #2”.)

7. On November 15, 2006, Ms. Black sent two letters to Zarzaur & Schwartz requesting, among other things, that Zarzaur & Schwarz provide validation of these debts under the provisions of the FDCPA. One letter requested validation of the amounts demanded for Citibank Account #1, and the other letter requested validation of the amounts demanded for Citibank Account #2.

8. Ms. Black’s two letters requesting validation of these debts were both delivered to Zarzaur & Schwartz on November 22, 2006.

9. Zarzaur & Schwartz did not respond to Ms. Black’s letters requesting validation of these debts, and they did not provide her with the requested validation.

10. On February 21, 2007, M. Brent Yarborough, an attorney employed by Zarzaur & Schwartz, filed a lawsuit against Ms. Black in the Circuit Court for Butler County, Alabama, seeking a judgment for amounts claimed to be due for both Citibank Accounts. The action was filed as Case No. CV-07-24. (This lawsuit will be referred to hereafter as “the Butler County lawsuit”.)

11. The Complaint in the Butler County lawsuit was served on Ms. Black on March 4, 2007.

12. Filing the Butler County lawsuit against Ms. Black was an action taken by Zarzaur & Schwartz for the purpose of collecting the debts claimed to be owed by Ms. Black to Citibank.

13. On March 26, 2007, the undersigned counsel, acting on behalf of Ms. Black, sent a letter to Mr. Yarborough in which he advised Mr. Yarborough, among other things, that it was a violation of the FDCPA to file the Butler County lawsuit without first providing Ms. Black with

the verification of these debts, as she had requested. The undersigned counsel asked Mr. Yarborough, among other things, to dismiss the lawsuit.

14. Despite this request, Zarzaur & Schwartz did not dismiss the Butler County lawsuit and instead engaged in various actions over the following months to prosecute its claims against Ms. Black.

15. As a result of Zarzaur & Schwartz's actions, as described above, Ms. Black was forced to retain counsel to represent her in the Butler County lawsuit and as a result became obligated to pay costs and attorney's fees. She also suffered from significant emotional distress as a result of having to be a party to the Butler County lawsuit.

16. On November 14, 2007, Ms. Black filed a Chapter 13 Bankruptcy Petition with the United States Bankruptcy Court for the Middle District of Alabama (Case No. 07-31789).

17. As a result of Ms. Black's having filed a Bankruptcy Petition, Zarzaur & Schwartz moved for dismissal of the Butler County lawsuit. That lawsuit was dismissed, without prejudice, on November 30, 2007.

Statement of Claim

18. In its actions as described above, Zarzaur & Schwartz was a "debt collector" within the meaning of the FDCPA. 15 U.S.C. §1692(6).

19. With regard to the events described in this Complaint, the plaintiff, Carol D. Black, was a "consumer" within the meaning of the FDCPA. 15 U.S.C. §1692a(3).

20. In filing the Butler County lawsuit against Ms. Black and in taking various actions to prosecute that lawsuit, Zarzaur & Schwartz violated the provisions of the FDCPA, 15 U.S.C. §1692g(b), in that, after having received requests for validation of the debts involved, it proceeded to engage in collection activities without obtaining verification of the debts claimed as

due and without having mailed the requested verifications to the debtor.

21. Zarzaur & Schwartz committed the violations of the FDCPA described above with regard to two separate debts claimed to be due.

22. Because it violated the above-cited provision of the FDCPA, Zarzaur & Schwartz is liable to Ms. Black for her actual damages, statutory damages as provided by the FDCPA, and her costs and attorney's fees in this action. 15 U.S.C. §1692k.

Jury Trial Demanded

In accordance with Rule 38 of the Federal Rules of Civil Procedure, the plaintiff hereby demands a jury trial of the issues in this action.

Prayer for Relief

WHEREFORE, the plaintiff, Carol D. Black, by counsel, asks this Court to enter a judgment in her favor and against the defendant, Zarzaur & Schwartz, P.C., awarding her:

(1) an amount sufficient to fully and fairly compensate her for her actual damages suffered as a result of the defendant's violations of the FDCPA; and

(2) the amount of \$1,000 representing statutory damages under the FDCPA, 15 U.S.C. §1692k, for having violated the FDCPA in its efforts to collect the amounts claimed as due for Citibank Account #1; and

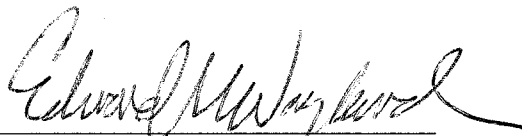
(3) An additional amount of \$1,000 representing statutory damages under the FDCPA, 15 U.S.C. §1692k, for having violated the FDCPA in its efforts to collect the amounts claimed as due for Citibank Account #2; and

(4) her costs and attorney's fees in this action.

Ms. Black also asks this Court to award her such other and further relief as to this Court shall seem just and proper.

Respectfully submitted,

CAROL D. BLACK
Plaintiff
By Counsel

A handwritten signature in black ink, appearing to read "Edward M. Wayland", is written over a horizontal line.

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